

Liability-Based State Law and Regulation Framework for Automated Vehicles

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Conventional mode: Human Driver steers

Human Driver potentially liable for loss event *unless*:

- Vehicle not responsive to controls or vehicle initiates dangerous maneuver
 - Dangerous vehicle behavior not reasonably controllable by Human Driver
- Examples: phantom braking, phantom swerving*



Supervisory mode: Computer Driver steers; Human Driver intervention may be required for safe operation

Manufacturer strict liability *unless* proof that:

- Vehicle detects non-attentive driver AND activates reasonable alarm
- Attentive Human Driver reasonably understands Computer Driver is at risk of a loss event AND Human Driver has adequate opportunity to intervene AND Human Driver fails to intervene
- Malicious Human Driver or malicious Road User behavior

For exceptions to apply, Computer Driver feature must conduct reasonable failure management behavior during times Human Driver is non-attentive and whenever Computer Driver detects it is at undue risk of a loss event.

(Note: Hands-on-steering-wheel is Supervisory if Computer Driver steers.)



Autonomous mode: No Human Driver required

Manufacturer strict liability *unless* proof that:

- Computer driver behavior at least as good as prudent Human Driver, AND other road users violated road rules in a relevant way, AND Computer Driver did not violate road rules in a relevant way
- Malicious Passenger or malicious Road User behavior



Testing: Any operation of a vehicle on public roads which is a prototype, beta version, undergoing validation, or otherwise not a series production release

Manufacturer strict liability *unless* proof that:

- Malicious other Road User behavior

In some cases, Human Test Driver might have additional liability, but Manufacturer may not transfer primary liability burden onto the Human Test Driver

¹ This is a high-level summary for non-legal stakeholders. Additional details will be addressed in more detailed treatments. Human Driver must be licensed for the appropriate class of vehicle, including tele-operators who steer. "Manufacturer" is OEM, upfitter, system integrator, or software provider as appropriate to the specific system and deployment approach.